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UNCLAS SECTION 01 OF 02 LILONGWE 000428

SIPDIS

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STATE FOR AF/S GABRIELLE MALLORY
STATE FOR INR/AA

E.O. 12958: N/A
TAGS: [PGOV](#) [KDEM](#) [KCOR](#) [MI](#)
SUBJECT: PRESIDENT FIRES ATTORNEY GENERAL

REF: A. LILONGWE 376
[B](#). LILONGWE 401
[C](#). LILONGWE 406

LILONGWE 00000428 001.2 OF 002

[1](#). (SBU) Summary: President Mutharika sacked Malawi's powerful Attorney General, Ralph Kasambara, on May 17. The move ends the reign of one of the most politically active AG's in Malawi's history. Kasambara often used his post to pressure the police into making questionable arrests, and masterminded the government's campaign to get rid of the Vice President (reftel A). The Solicitor General has been named acting AG until President Mutharika appoints someone to fill the post. End Summary.

[2](#). (SBU) Kasambara has acted as a legal strong-man both for both the President and the Democratic Progressive Party (DPP) as a whole, while in office. He has also led the charge against Vice-President Cassim Chilumpha, first by promoting the idea of the VP's "constructive resignation" and then, more recently, directing the treason case against Chilumpha. (ref A) Kasambara had also used his powers in a number of personal matters, recently ordering the arrest of a woman who claimed to be the mother of his illegitimate child for "baby dumping" after she left the child at his office, as well as the arrests of three journalists who wrote and published a story accusing him of theft. He had also been investigated by the Anti-Corruption Bureau for business transactions in 2005 involving extortion.

[3](#). (SBU) Kasambara had also made a number of enemies as he amassed power for himself and the party, among them the Minister of Justice Henry Phoya and the Director of Public Prosecutions Ismael Wadi. Kasambara had publicly chided both Phoya and Wadi while prosecuting the VP's case, and in Phoya's opinion had bungled the case from the beginning (ref B). Ambassador's comment: Henry Phoya is a central figure in this story; we know he had two long meetings with the President in the last few days and are fairly certain that restoring integrity, fairness, and ethical behavior to the government's prosecutorial establishment was on the agenda.

[4](#). (SBU) A number of rumors are swirling throughout the country over the reason for the AG's dismissal. One embassy source, whose story has not been corroborated, says Kasambara was not able to present audio tapes he claimed he had of the VP hiring an assassin. If this were true, Mutharika would

have be forced to fire the AG in order to distance the administration from the case, with the news sure to leak out shortly.

15. (SBU) The ambassador had a one-on-one conversation with Kasambara in Kasambara,s office yesterday (the day of his firing). As he had done with Justice Minister Phoya the week before, the Ambassador expressed our concerns about the arrest/release of a number of UDF officials and the arrest of the three journalists, emphasizing that the foreign missions in Malawi who were committed to supporting the President's anti-corruption drive were troubled by the appearance that the police, prosecutors and judicial system were being used for political and personal vindictive purposes. Kasambara, a very bright and articulate lawyer with an advanced degree from Notre Dame, first took the tack that there had been a "failure of public relations" but then defended the cases along the following lines:

-- The VP,s treason case: Kasambara said he had listened to the six hours of audio (on CDs) upon which the case will be based and believed the charges to be valid. He recognized that the prosecutors will have to overcome the similarity of the charges and the case of Morgan Tsvangari in Zimbabwe and speculated that it might be necessary to seek a technical evaluation of the recordings to validate them. He said that the witness lists and other disclosures to the defense would be handed over on Monday, May 22, and that the case could proceed to trial after the statutory three-week period for defense preparation had elapsed.

-- The other UDF defendants: Kasambara said that the arrests had been made at the initiative of the police, but on reviewing the evidence the police presented, he had declined prosecution. He deplored the arrest of a spouse in lieu of the defendant husband, saying however that in the Malawi

LILONGWE 00000428 002.2 OF 002

police, it was believed that detention of a spouse resulted in a near certainty that the absconder would appear in court. He declined the Ambassador,s suggestion that an admission of error or apology would be in order.

-- The Chronicle journalists: Kasambara felt that he was fully justified in swearing out a complaint of criminal libel against the Chronicle,s Rob Jamieson and his reporters, saying that he had repeatedly warned Jamieson against publishing malicious stories about him. Ambassador,s comment: This one was personal.

The Ambassador is convinced that Kasambara had no idea he was about to be fired from his job, an event which occurred about an hour after their meeting concluded.

16. (SBU) Comment: In the end, the President did the right thing. Kasambara was useful, with his zeal and formidable legal skills, to lead the political score-settling between the administration and the UDF. But his forays into using the power of his office for personal revenge and his high public profile in these cases turned him into a political liability. We believe the lamentable arrest of the spouse and his personal filing of the charges against the journalists were the tipping points. Malawi is swirling with various rumors about the firing at this stage, and we believe there are probably a number of senior officials who are apprehensive about what form his attempts to avenge himself will take. One deputy minister, in a moment of candor upon hearing that Kasambara had been fired told Embassy officials that, "Kasambara knows everything...he could say that this is trumped up or that is trumped up."

17. (SBU) Kasambara,s departure will, we hope, introduce some rationality and bring to an end at least the more over-the-top cases of politically-motivated prosecutions against opposition figures (ref C). Sidelining Kasambara is a significant positive step, demonstrating that some senior

figures in Malawi are committed to the rule of law and have the clout to convince the President to take action to restore it. The Malawi government is normally unable ever to admit it has acted wrongly, so we do not expect much elaboration of the reasons behind the removal of the Attorney General. Res ipsa loquitur.

[18](#). (SBU) Mordechai Msisha, a respected attorney and a framer of the Malawian constitution, is rumored to be the President's pick to be the next AG. End Comment.
EASTHAM